

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on October 26, 2007, which had been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

In the Final Office Action, the Examiner indicated that claim 8 is allowed and that claims 5, 10-11 and 17 would be allowable if rewritten in independent form. In addition, claims 1-4, 6-7, 9, 12-16 and 18-21 are rejected under 35 U.S.C. §103(a) as allegedly anticipated by U.S. Patent Application Publication No. 2003/0038772 (DeBoer). Applicants gratefully acknowledge the indication that claim 8 is allowed and that claims 5, 10-11 and 17 contain allowable subject matter. However, Applicants have not rewritten these claims in independent form, since it is believed that independent claims 1 and 20, as well as claims 2-4, 6-7, 9, 12-16 and 18-21, are allowable over DeBoer for at least the following reasons.

It is respectfully submitted that De Boer is only available as

prior art with regard to the present application under 35 U.S.C. §102(e), and is not available as prior art under §103(a) for the following reasons.

The present application was filed July 12, 2005, and thus has the benefit of the November 29, 1999, changes to 35 U.S.C. §103(c). Under 35 U.S.C. §103(c), (emphasis added) "Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The subject matter of De Boer and the claimed invention are and were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, the same person(s) or organization(s). Since, De Boer has a publication date of February 27, 2003, which is after the European filing date of January 17, 2003 of the present application, where the corresponding PCT Application PCT/IB2003/006316 designates the U.S. and is published in English as WO 2004/066023, De Boer is available as prior art

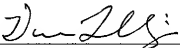
with regard to the present application only under 35 U.S.C. §102(e). As the present application is owned by the same organization or subject to an obligation of assignment to the same organization, it is respectfully submitted that De Boer is not available as prior art under §103(a).

Accordingly, it is submitted that claims 1-7 and 9-21 are allowable and an indication as such is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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